

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MYRA S. SMITH,

Plaintiff,

-against-

CITY OF NEW YORK,

Defendant.

No. 1:23-cv-08229 (JLR)

ORDER

JENNIFER L. ROCHON, United States District Judge:

The Court has received *pro se* Plaintiff's request for a further extension of time to file her opposition to Defendant's motion to dismiss. ECF No. 24. Defendant originally filed its motion to dismiss on January 8, 2024. ECF No. 11. Plaintiff's original deadline to oppose the motion was January 22, 2024, which the Court extended to February 16, 2024, further extended to March 29, 2024, further extended to April 15, 2024, and then further extended to June 14, 2024. ECF Nos. 16, 18, 20, 23. The Court has cautioned Plaintiff multiple times that she is "responsible for meeting filing deadlines in this case," ECF Nos. 20, 23, and that should she fail to meet her deadline, Defendant's motion to dismiss will be deemed unopposed, which may result in dismissal of this action. *See* ECF Nos. 18, 20, 23. Plaintiff now requests a further extension of time to oppose the motion, up to and including August 1, 2024. ECF No. 24 at 2.

In support of her request for a further extension, Plaintiff states that she "has a return date of May 29, 2024 in an underlying matter against Defendant" but that she "has not received a decision in that matter." ECF No. 24 at 1. Plaintiff also states that she "will definitely need to amend the complaint before this court to include . . . [information related to] that matter." *Id.* Plaintiff states that she will include in her amended complaint allegations regarding certain actions by Defendant, including that Defendant "den[ied] Plaintiff access to

the restroom at work;” “chang[ed] Plaintiff’s work schedule which immediately reduced plaintiff’s wages;” and more. *Id.* at 2.

The Court construes Plaintiff’s filing as a request to amend her complaint. Plaintiff has not yet had an opportunity to amend her complaint, and therefore, the Court will grant Plaintiff leave to amend her complaint to add her additional factual allegations and potentially address the deficiencies identified in Defendant’s motion to dismiss. *See Romano v. Lisson*, 711 Fed. Appx. 17, 19 (2d Cir. 2017) (summary order) (“[A] *pro se* complaint should not be dismissed without the Court granting leave to amend at least once when a liberal reading of the complaint gives any indication that a valid claim might be stated.” (citation omitted)). Accordingly, Defendant’s motion to dismiss is denied without prejudice as moot at this time.

Plaintiff’s amended complaint must be filed by August 1, 2024. Given the extensive delay on Plaintiff’s part, despite repeated warnings by the Court, Plaintiff shall not be granted an extension of time to file her amended complaint beyond August 1, 2024 absent a showing of good cause. As the Court has repeatedly warned Plaintiff, access to her cell phone, her Verizon connection, and other digital services does not constitute good cause that would necessitate an extension of this deadline. *See* ECF Nos. 20, 23.

Should Plaintiff fail to file an amended complaint by August 1, 2024, her original complaint shall remain the operative complaint, and Defendant may re-file its motion to dismiss, or otherwise respond to the complaint, by August 21, 2024. Plaintiff’s deadline to oppose the motion to dismiss is 14 days from the date the Defendant files the motion and there shall be no extensions absent good cause given the months of prior extensions that have been granted. Should Plaintiff fail to oppose the motion to dismiss, the motion will be deemed unopposed, which may result in dismissal of this action.

The Clerk of Court is respectfully directed to CLOSE the motion pending at ECF

No. 11.

Dated: June 21, 2024
New York, New York

SO ORDERED.



JENNIFER L. ROCHON
United States District Judge